BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)
Dated: 02/08/2022

PRESENT
The Hon-ble Mr.Justice G.ILANGOVAN

Crl.OP(MD)No.10523 of 2022

Subash Chandra Bose : Petitioner/A1

Vs.

State rep. By
Inspector of Police,
Keerathurai Police Station,
Madurai City.
(Crime No.247 of 2021) : Respondent/Complainant

For Petitioner : Mr.J.Vijayaraja

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

PETITION FOR BAIL under Sec.439 of Cr.P.C

PRAYER :~C32B.For Bail in Crime No.247 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order:~

The petitioner, who is arrayed as A1 was arrested, on 20/05/2021 and remanded to judicial custody for the alleged offences punishable under sections 8(c), 20(b),(ii)(c) 29 of NDPS Act, in Crime No.247 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 18/05/2021 at about 6.00 hours, on a secret information, the de~facto complainant along with police team went near Leelavathy Marriage Hall. At about 6.45 am, they found a person carrying package and making some pockets. He was identified by the informer and he was apprehended. On search, he disclosed that his name is Rafiq Raja, who is arrayed as A2 in the FIR. On the basis of the statement given by him, this petitioner is also arrayed as accused.

3.Seeking bail, this petition has been filed on the ground that except

the confession statement of the co~accused, no other material has been collected by the Investigating Agency against this petitioner. He was granted bail in Crl.OP(MD)Nos.2094 and 2680 of 2022, since only the confession statements were available.
4.Heard both sides.

5.The earlier bail application, that was moved by the petitioner along with the co~accused came to be dismissed by the trial court on 04th March 2022 stating that this petitioner is involved in more than 18 cases and most of the cases found to be murder, robbery and apart from that, he is also involved in similar case in Crime No.828 of 2020. Considering the habitual nature of the petitioner and also finding that section 37 of NDPS Act has not been complied, that petition came to be dismissed.

6.Now the learned counsel appearing for the petitioner would submit that the petitioner is undergoing treatment for his left ankle and left arm fracture and the date of discharge is 16/01/2021. Now more than one year lapsed. By this time, the petitioner would have recovered fully.

7.No doubt on the basis of the confession statement of the co~accused, the involvement of the petitioner has been found out as mentioned above.
8.Even though, the learned counsel appearing for the petitioner would submit that bail has been granted in Crl.OP(MD)Nos.2094 and 2680 of 2022, dated 28/02/2022, that pertaining to one Nelson. According to the learned counsel appearing for the petitioner, the rule of parity can be adopted for this petitioner also. But the above said Nelson is not arrayed as an accused in this case. So the question of rule of parity may not arise.

9.So far as Crl.OP(MD)No.2094 of 2022 is concerned, it is in respect of Crime No.1453 of 2020. So that order cannot be taken as a precedent. Since the matter is of the year 2021, considering the habitual nature of the petitioner, I am of the considered view that there is no guarantee that if he is released on bail, he will not commit similar nature of the offence.

10.In the result, this criminal original petition is dismissed. But however, considering the duration of the custody of the petitioner, there shall be a direction to the trial court to expedite the trial process and complete the same within a period of five months from the date of receipt of a copy of this order.

02/08/2022
Index:Yes/No
Internet:Yes/No
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To,

1.The Inspector of Police,
Keerathurai Police Station,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.ILANGOVAN,J
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Crl.OP(MD)No.10523 of 2022

02/08/2022